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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,051	02/12/2002	Wei Wang	02453.0003.CNUS01	8564
27194 7590 08/22/2007 HOWREY LLP C/O IP DOCKETING DEPARTMENT 2941 FAIRVIEW PARK DRIVE, SUITE 200 FALLS CHURCH, VA 22042-2924			EXAMINER BAYARD, DJENANE M	
			ART UNIT 2141	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/075,051	<b>Applicant(s)</b> WANG ET AL.	
	<b>Examiner</b> Djenane M. Bayard	<b>Art Unit</b> 2141	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 20-22 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 20-22 and 39-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is in response to amendment filed on 6/08/07 in which claims 1-4, 20-22 and 39-43 are pending.

#### ***Response to Arguments***

2. Applicant's arguments filed have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Sharing of persistent policies between different types of resource request, By sharing the same persistence based policy between the different types of service requests, the same persistence allocation mechanism can be shared) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-4, 20-22 and 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No.2003/0023744 to Sadot et al.

a. As per claims 1 and 20, Sadot et al teaches a system for allocating a resource in a network comprising: first logic in the network for determining if any of a plurality of persistence policies, comprising at least one first persistence policy and at least one second persistence policy, is applicable to a service request, and, if so, allocating the resource to the request based on application of the persistence policy determined to be applicable (See page 3, paragraph [0034-0035]); the first logic configured so that: when a first type of service request is received, the first logic determines if the at least one first persistence policy is applicable (See page 3, paragraph [0034], *if a packet belongs to a session in progress, the packet is forwarded to a server previously selected for the session*); when a second type of service request is received, the first logic determines if the at least one second persistence policy is applicable (See page 3, paragraph [0034], *if the packet belongs to a new session, load balancer determines whether the packet comprises an SSL "client hello" message which includes an SSL session ID*); when the first type of service request is received but it is determined that the first persistence policy is inapplicable, the first logic determines if the at least one second persistence policy is applicable (See page 3, paragraph [0034 and figure 2]); and second logic in the network for allocating the resource to the request based on application of a load balancing policy only if none of the plurality of persistence policies is determined to be inapplicable as determined by the first logic

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(See page 3, paragraph [0035]),

b. As per claim 2, Sadot et al teaches the claimed invention as described above.

Furthermore, Sadot et al teaches wherein the first logic determines if a persistence policy is applicable to a service request having an originator through consideration of whether or not an allocation exists or recently expired for the originator the service request (See page 3, paragraph [0034-0035]).

c. As per claims 3 and 21, Sadot et al teaches A system for allocating a resource, in a network, to a resource request, the request having an originator based on application of a persistence policy comprising: first logic in the network for determining whether an allocation exists or recently expired for the originator of the resource request, based on application of any of a plurality of persistence policies, comprising at least one first persistence policy and at least one second persistence policy, to the request, and, if so, identifying the resource which is the subject of the existing or recently expired allocation (See page 3, paragraph [0034], *if a packet belongs to a session in progress, the packet is forwarded to a server previously selected for the session*); the first logic configured so that: when a first type of service request is received, the first logic determines whether an allocation exists or recently expired for the originator of the resource request by applying the at least one first persistence policy, or the at least one second persistence policy when the at least one first persistence policy is determined to be inapplicable (See page 3, paragraph [0034-0035]); when a second type of resource request is received, the first logic determines whether an allocation exists or recently expired for the originator of the

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resource request by applying the at least one second persistence policy; and second logic in the network for allocating the resource, once identified, to the resource request (See page 3, paragraph [0034], *if the packet belongs to a new session, load balancer determines whether the packet comprises an SSL "client hello" message which includes an SSL session ID*).

d. As per claims 4 and 22, Sadot et al teaches the claimed invention as described above.

Furthermore, Sadot et al teaches wherein the resource request is derived from or represented by a packet (See page 3, paragraph [0034-0035] and figure 2).

e. As per claim 40, Sadot et al teaches the claimed invention as described above.

Furthermore, Sadot et al teaches wherein the at least one first persistence policy comprises at least one session-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy (See page 3, paragraph [0034-0035]).

f. As per claim 41, Sadot et al teaches a system for allocating a resource in a network comprising: first logic in the network for determining if any of a plurality of persistence policies, comprising at least one cookie-based persistence policy, at least one session-based persistence policy, and at least one client-based persistence policy, is applicable to a service request, and, if so, allocating the resource to the request based on application of the persistence policy determined to be applicable (See ; the first logic configured so that: when a first type of service request is received, the first logic determines if either the at least one cookie-based or at least one session-based persistence policy is applicable (See page 3, paragraph [0034], *the load*

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*balancer determines whether the packet belongs to a session* ); when a second type of service request is received, the first logic determines if the at least one client-based persistence policy is applicable (See page 3, paragraph [0034], *the load balancer determines whether the packet comprises a client Hello message* ); when the first type of service request is received but it is determined that both the at least one cookie-based persistence policy and the at least one session-based persistence policy are inapplicable, the first logic determines if the at least one client-based persistence policy is applicable; and second logic in the network for allocating the resource to the request based on application of a load balancing policy only if none of the plurality of persistence policies is determined to be applicable as determined by the first logic (See page 3, paragraph [0035]).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

Application No.2003/0023744 to Sadot et al in view of U.S. Patent No. 6,351,812 to Datar et al.

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a. As per claim 39, Sadot et al fails to teach wherein the at least on first persistence policy comprises at least one cookie-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy.

Datar et al teaches one cookie-based persistence policy, and the at least one second persistence policy comprises at least one client-based persistence policy (See col. 7, lines 32-54).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Datar et al in the claimed invention of Sadot et al in order to examine the status of information provided by the client and determine if it is adequate based on application-appropriate policies regarding the freshness of the information (See col. 4, lines 44-48).

7. Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No.2003/0023744 to Sadot et al in view of U.S. Patent Application No. 2002/0199014 to Yang et al.

a. As per claims 42 and 43, Sadot et al teaches the claimed invention as described above. Furthermore, Sadot et al teaches wherein the first type of resource request is content-aware, and the second type of resource request is non-content-aware.

Yang et al teaches wherein the first type of resource request is content-aware, and the second type of resource request is non-content aware (See paragraph [0012]).



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It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the teaching of Yang et al in the claimed invention of Sadot et al in order to enable intelligent request routing (See paragraph [0012]).

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

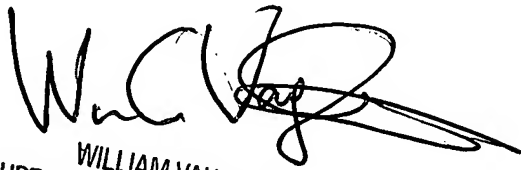
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Djenane Bayard

Patent Examiner

  
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